

**NEBRASKA BOARD OF PUBLIC ACCOUNTANCY
MEETING MINUTES OF
NOVEMBER 6, 1998**

1. General

A. Call to Order and Roll Call. The Board of Public Accountancy was called to order at 8:33 a.m. on November 6, 1998, with Chairman Richard Hoiekvam presiding. The meeting was held at the office of the Board at 140 N. 8th Street, Suite 290, Lincoln, Nebraska.

The roll was called with the following members present: Richard Hoiekvam, Robert McChesney, George Klein, Luke Aldy and David Hunter. Also present were staff members Annette Harmon and Mary Shonerd. Board member William Gaines arrived at 8:35 a.m. and Board members Kathleen Smith and Nina Kavich arrived at 8:45 a.m. Visitors during portions of the meeting were Dan Vodvarka, Kathleen Quinn, and Ed Russo.

B. Approval of meeting agenda for the November 6, 1998 Board Meeting. Moved by Aldy, seconded by McChesney, that the Board adopt the agenda as amended to include item 5-F. On roll call vote, all members present voted aye. Members Gaines, Smith and Kavich were absent. Motion number 1 carried.

C. Approval of minutes for the September 18, 1998 Board meeting. Moved by Klein, seconded by Aldy, to approve the meeting minutes as written for September 18, 1998. On roll call vote, all members present voted aye. Members Gaines, Smith and Kavich were absent. Motion number 2 carried.

4. Consent Agenda

Approval of November 6, 1998 Consent Agenda. Moved by McChesney, seconded by Klein, to approve the Consent Agenda. On roll call vote, all members present voted aye. Members Smith and Kavich were absent. Motion number 3 carried.

A. Published Notice of Meeting. Pursuant to call and published notice, the notice of meeting is herewith attached.

B. Review of Board Budget Status Report. The Board reviewed the September 30, 1998 Budget Status Report.

C. Approval of September, 1998 disbursements. The Board reviewed and approved the September, 1998 disbursements.

D. Licensure Report. The Board reviewed a report on permits and registrations issued as of October 26, 1998. Prior year's statistics were also reviewed for comparison.

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6. Executive Reports

Report from Executive Director. The Executive Director reported on the November, 1998 CPA examination, implementing computerization programming, and mailings scheduled for December 1st.

2. Formal Hearing: Complaint #97-27 Les Wilhelm

A hearing was held at 8:50 a.m. on November 6, 1998 on complaint #97-27 for Les Wilhelm. Representing the Board of Public Accountancy was Robert Gritmit from Baylor, Evnen, Curtiss, Gritmit & Witt. Kent Radke acted as Hearing Officer. The respondent, Les Wilhem, was present but was not represented by legal counsel. Board members present and participating on this matter were Richard Hoiekvam, Robert McChesney, Kathleen Smith, Nina Kavich, Luke Aldy, George Klein, David Hunter and William Gaines.

3. Formal Hearing: Complaint #98-04 Lynn Michl

A hearing was held at 9:30 a.m. on November 6, 1998 on complaint #98-04 for Lynn Michl. Representing the Board of Accountancy was Robert Gritmit from Baylor, Evnen, Curtiss, Gritmit & Witt. Kent Radke acted as Hearing Officer. The respondent Lynn Michl was present but was not represented by legal counsel. Board members present and participating on this matter were Richard Hoiekvam, Robert McChesney, Luke Aldy, Kathleen Smith, Nina Kavich, William Gaines, David Hunter, and George Klein.

CLOSED MEETING

Closed Meeting. Moved by McChesney, seconded by Aldy, that the Board go into closed session at 10:43 a.m. to discuss enforcement and personnel issues. On roll call vote, all members present voted aye. Motion number 4 carried.

The Board recessed for lunch from 11:55 a.m. to 1:00 p.m.

Return to Open Meeting. Moved by Gaines, seconded by Smith, that the Board return to open session at 1:05 p.m. On roll call vote, all members present voted aye. Motion number 5 carried.

Legislation & Rules Committee

A. Proposed Legislation 1999 – Bill Draft. Non-licensee ownership discussion. Moved by Gaines, seconded by McChesney, that the Board endorse the draft legislation to enable CPA candidates to sit for the CPA examination within 60 days of graduation and to increase the equity

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capital, voting rights, and firm's profits or losses from 33% to 49% for non-licensee ownership. On roll call vote, all members present voted aye, except member Hunter voting nay. Motion number 6 carried.

B. Proposed Rules – CCR Fees Survey Update. The bid to conduct and analyze survey results from the Center For Rural Research and Development was accepted and work has begun. The survey was mailed October 27 and responses are requested back to CRRD by November 5. Kay Payne and her staff will then analyze the results and prepare a presentation for the January 7-8, 1999 Board meeting.

C. Joint Task Force Update. Chair Richard Hoiekvam reported that the Nebraska Society of CPAs Legislative Task Force had already met one time, with task force committee members Bill Gaines, Annette Harmon and himself participating. They are scheduled to meet again in November and December 1998.

CLOSED MEETING

Closed Meeting. Moved by Klein, seconded by Aldy, that the Board go into closed session at 1:27 p.m. to discuss enforcement and personnel issues. On roll call vote, all members present voted aye. Motion number 7 carried.

Return to Open Meeting. Moved by Gaines, seconded by McChesney, that the Board return to open session at 2:59 p.m. On roll call vote, all members present voted aye. Motion number 8 carried.

Member Hunter was absent from 2:45 to 3:15 p.m.

2. Formal Hearing: Complaint #97-27 Les Wilhelm

Moved by McChesney, seconded by Smith, that the Board find Les Wilhelm in violation of Rules 5-007.05 and 5-007.01, with the following discipline:

- 1) a reprimand;
- 2) probation for three years;
- 3) a review of his tax return files after the 1998 tax season (after April 15, 1999) to determine and ascertain that he does retain depreciation schedules; require him to keep depreciation schedules for all clients in the future;
- 4) pay costs of the hearing and costs of the tax files review.

On roll call vote, all members present voted aye. Motion number 9 carried.

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3. Formal Hearing: Complaint #98-04 Lynn Michl

Moved by McChesney, seconded by Smith, that the complaint be dismissed. On roll call vote, all members present voted aye. Motion number 10 carried.

5. Enforcement of Professional Conduct Committee

A. Complaint Consent Agenda. Moved by McChesney, seconded by Smith, to approve the Complaint Consent Agenda. On roll call vote, all members present voted aye. Motion number 11 carried.

- 1) Complaint Status Log. The Board reviewed a “log” of complaints being “carried over” to 1998 and a “log” of 1998 complaints received, action taken, monitoring status, etc.

B. 98-10 Restated Financial Statements of Company. Moved by Smith, seconded by Gaines, to continue monitoring this case under the direction of a three-member subcommittee of Hunter, Smith and Aldy. On roll call vote, all members present voted aye. Motion number 12 carried.

C. 98-07 Phone Book Listings. Moved by McChesney, seconded by Smith, to schedule Show Cause Hearings at the next meeting for the two entities who have not yet responded to Cease & Desist Orders: Gerard Forget and Loren R. & Vicki Jorgenson (d.b.a. Jorgenson Accounting and Computer Service). On roll call vote, all members present voted aye. Motion number 13 carried.

D. 98-09 Phone Listings as CPA by Unlicensed Certificate Holder. Moved by McChesney, seconded by Smith, to schedule a Show Cause Hearing at the next meeting for Lee Johnson regarding phone listings, complaints of collecting fees without performing work, and return of records. On roll call vote, all members present voted aye. Motion number 14 carried.

E. 96-14 Lawsuit Filed by two Companies using CPA Firm. The consultants hired by the Board will prepare a written summary of their findings of review of litigation documents for presentation and discussion at the Board’s next meeting. A copy of the firm’s peer review will also be obtained.

F. 98-17 Improper Use of CPA Designation by Limited Liability Company. Moved by McChesney, seconded by Smith, that administration investigate further to make sure this firm is not a CPA firm and whether there is a violation of our law and rules concerning the CPA designation by the next meeting. On roll call vote, all members present voted aye. Motion number 15 carried.

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6. Executive Reports

B. Report from Treasurer. The Board reviewed the Fund Summary Report from September 30, 1998.

C. Report from Chairman of Board. The Chairman gave an update on appointments to the Board; EAC Committee; NSCPA's Recognition Reception; Breslow inquiry; expense reimbursements submitted in a timely fashion; and attendance of members at NASBA's Committee meetings.

7. Continuing Education Committee

A. Ratification of staff program evaluations since last meeting. Moved by Gaines, seconded by Kavich, to approve the recommendations of administrative personnel for courses requesting continuing education credit. On roll call vote, all members present voted aye, except member Hunter who voted nay. Motion number 16 carried.

B. CPE Guideline Revisions. The Board reviewed proposed revisions to the CPE Guidelines. Moved by Gaines, with the Committee's recommendation, that the Board approve the CPE process as outlined by the Committee. On roll call vote, all members voted aye. Motion number 17 carried.

8. Examination & Licensing Committee

A. Ratification of initial permits to practice issued; certificates issued. Moved by Klein, with the Committee's recommendation, to ratify the initial permits to practice and certificates issued by examination and reciprocity. On roll call vote, all members present voted aye. Motion number 18 carried.

B. 1999 Exam Locations. The Board reviewed the locations reserved for the 1999 exams. Moved by Klein, with the Committee's recommendation, to approve the contracts entered into by the staff for the 1999 exam locations. On roll call vote, all members present voted aye. Motion number 19 carried.

C. NASBA's Exam Committee Resolution. At NASBA's 1998 Annual Meeting, Examination Committee Chair, Nathan Garrett, discussed their proposal for a new "charge" for the Exams Committee. The Board reviewed the proposed "Board resolution" suggested for state boards to adopt in support of the new Committee charge. Moved by Klein, with the Committee's recommendation, that the Board adopt the proposed resolution. On roll call vote, all members present voted aye. Motion number 20 carried.

D. Flowchart of Inactives Without Experience. The Board reviewed a flowchart on the impact of eliminating inactive registrants without experience from the current Inactive list.

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Moved by Klein, seconded by Smith, that effective with the next licensing period, the Board classify certificate holders into three categories: (1) those that have an active permit; (2) those that qualify to have an active permit, but are registered inactive; and (3) those that only hold a certificate and do not fall into category 1 or 2. No fee will be required for category 3, but they will be requested to register their addresses annually. On roll call vote, all members present voted aye. Motion number 21 carried.

E. Abbreviation of Experience Form. The Committee will draft a proposed abbreviation of the Audit Experience Form for review at the next meeting.

10. New Business

A. Future Meeting Dates. The next regularly scheduled Board meeting is January 7-8, 1999 in Fremont. Future meeting dates are scheduled for March 22, 1999 with the location to be determined at a later date and May 20-21, 1999 in Omaha, Nebraska.

B. NASBA. The Executive Director reported on the NASBA Annual Meeting in Tucson, Arizona, David Costello's FDIC Complaint letter and NASBA's Complaint Referral Handbook.

C. Attendance at NASBA Administrator's Conference. NASBA's annual Administrator's conference will be held February 7-10, 1999 in Redondo Beach, California. Moved by Aldy, seconded by Gaines, that the Board approve the expenses of personnel to attend the NASBA's Administrator's conference in February, 1999. On roll call vote, all members present voted aye. Motion number 22 carried.

D. Election of Officers. The Board voted by ballot to elect Kathleen Smith as Chair with five votes. The second vote for Vice Chair resulted in a tie vote between Nina Kavich and William Gaines (with three votes each). Moved by Smith, seconded by McChesney, that the Board elect Nina Kavich as Vice Chair, and William Gaines as Secretary. On roll call vote all members present voted aye, except member Gaines who abstained. Motion number 23 carried.

11. Adjournment

It was moved by Smith, seconded by Kavich, that the Board adjourn at 4:54 p.m. On roll call vote, all members present voted aye. Motion number 24 carried.

Submitted by,

William L. Gaines, Jr., CPA
Secretary